

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 LINDA K. SCHNEIDER, State Bar No. 101336  
Supervising Deputy Attorney General  
3 AMANDA DODDS  
Legal Analyst  
4 110 West "A" Street, Suite 1100  
San Diego, CA 92101  
5  
6 P.O. Box 85266  
San Diego, CA 92186-5266  
Telephone: (619) 645-2141  
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

9  
10 **BEFORE THE**  
**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 MICHAEL A. APFFEL  
25328 Bellview Street  
14 Hemet, CA 92544

15 Occupational Therapist License No. OT 8760

16 Respondent.

Case No. AL 2005-143

**DEFAULT DECISION**  
**AND ORDER**

[Gov. Code, §11520]

17  
18 FINDINGS OF FACT

19 1. On or about October 30, 2008, Complainant Heather Martin, in her  
20 official capacity as the Executive Officer of the California Board of Occupational Therapy,  
21 Department of Consumer Affairs, filed Accusation No. AL 2005-143 against Michael A. Apffel  
22 (Respondent).

23 2. On or about April 26, 2006, the California Board of Occupational Therapy  
24 (Board) issued Occupational Therapist License No. OT 8760 to Respondent. The Occupational  
25 Therapist License was in full force and effect at all times relevant to the charges brought herein  
26 and will expire on February 28, 2009, unless renewed.

27 3. On or about November 4, 2008, Rosita Donovan, an employee of the  
28 Department of Justice, served by Certified and First Class Mail a copy of the Accusation

1 No. AL 2005-143, Statement to Respondent, Notice of Defense, Request for Discovery, and  
2 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record  
3 with the Board, which was and is:

4 25328 Bellview Street  
5 Hemet, CA 92544

6 A copy of the Accusation is attached as Exhibit A, and is incorporated herein by reference.

7 4. Service of the Accusation was effective as a matter of law under the  
8 provisions of Government Code section 11505, subdivision (c).

9 5. On or about December 1, 2008, the aforementioned documents were  
10 returned by the U.S. Postal Service marked "Unclaimed."

11 6. Government Code section 11506 states, in pertinent part:

12 (c) The respondent shall be entitled to a hearing on the merits if the  
13 respondent files a notice of defense, and the notice shall be deemed a specific  
14 denial of all parts of the accusation not expressly admitted. Failure to file a notice  
15 of defense shall constitute a waiver of respondent's right to a hearing, but the  
16 agency in its discretion may nevertheless grant a hearing.

17 7. Respondent failed to file a Notice of Defense within 15 days after service  
18 upon him of the Accusation, and therefore waived his right to a hearing on the merits of  
19 Accusation No. AL 2005-143.

20 8. California Government Code section 11520 states, in pertinent part:

21 (a) If the respondent either fails to file a notice of defense or to appear at  
22 the hearing, the agency may take action based upon the respondent's express  
23 admissions or upon other evidence and affidavits may be used as evidence  
24 without any notice to respondent.

25 9. Pursuant to its authority under Government Code section 11520, the Board  
26 finds Respondent is in default. The Board will take action without further hearing and, based on  
27 the evidence on file herein, finds that the allegations in Accusation No. AL 2005-143 are true.

28 10. The total cost for investigation and enforcement in connection with the  
Accusation are \$7,975.00 as of December 3, 2008.

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1. Based on the foregoing findings of fact, Respondent Michael A. Apffel

3. The agency has jurisdiction to adjudicate this case by default.

4. The California Board of Occupational Therapy is authorized to revoke

a. Respondent is subject to disciplinary action under section

b. Respondent is subject to disciplinary action for unprofessional

c. Respondent is subject to disciplinary action for unprofessional

///


1 ORDER

2 IT IS SO ORDERED that Occupational Therapist License No. OT 8760,  
3 heretofore issued to Respondent Michael A. Apffel, is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may  
5 serve a written motion requesting that the Decision be vacated and stating the grounds relied on  
6 within seven (7) days after service of the Decision on Respondent. The agency in its discretion  
7 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the  
8 statute.

9 This Decision shall become effective on February 5, 2009.

10  
11 It is so ORDERED January 6, 2009

12   
13 FOR THE CALIFORNIA BOARD OF OCCUPATIONAL  
14 THERAPY.  
15 DEPARTMENT OF CONSUMER AFFAIRS

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26 DOJ docket number: SD2008801266

27 Attachment:

28 Exhibit A: Accusation No.AL 2005-143